

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

APR 03 2009

CHARLES WILLIAMS,

LAWRENCE K. BAERMAN, CJA
UTICA

Plaintiff,

v.

9:07-CV-789

ZUK, Deputy, Onondaga County Sheriff's Department; BERELLA, Sergeant, Onondaga County Sheriff's Department; ISYKK, Deputy, Onondaga County Sheriff's Department; QUINN, Sergeant, Onondaga County Sheriff's Department; BOUCHIE, Sergeant, Onondaga County Sheriff's Department; UZINOFF, Deputy, Onondaga County Sheriff's Department,

Defendants.

APPEARANCES:

CHARLES R. WILLIAMS
Plaintiff, Pro Se
P.O. Box 143
Jamesville, New York 13078

HON. GORDON J. CUFF, ESQ.
Onondaga County Attorney
421 Montgomery Street, 10th Floor
Syracuse, New York 13202

OF COUNSEL:

KAREN ANN BLESKOSKI, ESQ.
Deputy County Attorney

DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff, Charles Williams, brought this civil rights action pursuant to 42 U.S.C. § 1983. Following an order remanding plaintiff's suit for reconsideration in view of Federal Rule of Civil Procedure 6(a)(1) and the decision in Mitchell v. Smith, No. 06-CV-373, 2008

WL 1774160 (S.D. Ala. Apr. 14, 2008), the Honorable David E. Peebles, United States Magistrate Judge, issued a second Report-Recommendation and Order dated January 22, 2009. Pursuant to the Report-Recommendation and Order, Magistrate Judge Peebles denied recusal of himself and recommended that defendants' motion to dismiss be granted and that plaintiff's complaint be dismissed with leave to replead. The plaintiff has filed timely objections to the Report-Recommendation and Order.

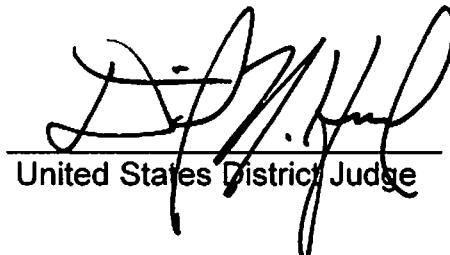
Based upon a careful review of the entire file and the recommendation of Magistrate Judge Peebles, the Report-Recommendation and Order is accepted and adopted in all respects. See 28 U.S.C. § 636(b)(1).

Accordingly, it is

ORDERED that

- (1) The defendants' motion to dismiss is GRANTED, and
- (2) The plaintiff's complaint is DISMISSED with leave to replead.

IT IS SO ORDERED.



United States District Judge

Dated: April 1, 2009
Utica, New York.